

Editor's note: Appealed -- aff'd, sub nom. Duvels, Inc. v. Frizzell, Civ. No.C-75-175 (D.Utah July 6, 1976)

WOODS PETROLEUM CORP. et al.
WILLIAM RALPH STROBLE et al.

IBLA 73-380, 73-399

Decided July 20, 1973

Appeal from Utah State Office, Bureau of Land Management, decision of April 23, 1973, rejecting coal prospecting permit applications, U-7296 etc.

Affirmed.

Coal Leases and Permits: Applications

A decision rejecting coal prospecting permit applications will be affirmed where the decision was made pursuant to and in accordance with Secretarial Order 2952 of February 13, 1973.

BY THE BOARD

The appellants named below severally appealed from a decision rejecting their individual coal prospecting permit applications. The decision recited that it was promulgated pursuant to Secretarial Order 2952, which directed that all coal prospecting permit applications must be rejected pending further instructions.

In the main, appellants contend that, in this period of energy shortage, coal prospecting and development should be encouraged by the immediate issuance of the applied-for permits. Even while conceding the Secretary's discretionary authority to refuse to issue a permit, they argue that permits should issue where the Geological Survey had raised no objection, where the particular type of coal (e.g., coking coal) is in short supply, or where exploration is undertaken to determine economic workability in connection with nearby deposits under appellants' control. The parties, generally, view Secretarial Order No. 2952 as a precipitous action promulgated in an arbitrary and capricious manner.

All questions raised by appellants, and many more, were considered prior to the Secretary's Order No. 2952 of February 13, 1973. It was the Secretary's studied opinion that the interests of the United States are best served by the action taken. The Order precludes the issuance of any new coal prospecting permits pending

preparation of a program for more orderly development. It directed that all applications for prospecting permits shall be rejected pending further instructions. Pursuant to the Mineral Leasing Act, 30 U.S.C. §201(b) (1970), the Secretary is authorized to issue such instructions. We will review the decision below to assure those instructions were followed. Marvin E. Weaster, 10 IBLA 277 (1973); Richard K. Todd, 68 I.D. 291 (1961), aff'd in Duesing v. Udall, 350 F.2d 748 (D.C. Cir. 1965), cert. den. 383 U.S. 192 (1966).

In the instant case BLM correctly applied the instructions of Order 2952 and properly rejected appellant's coal prospecting permit applications.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions below are affirmed.

APPEARANCES:

(IBLA 73-380)

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Frandsen & Keller, Esqs., for George H. Frandsen U-18305-18313

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West Park International, Inc. U-14724

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(IBLA 73-399)

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(IBLA 73-399)

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